



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1302

RIN 0970-AC63

Secretarial Determination to Lower Head Start Center-Based Service Duration Requirement

AGENCY: Office of Head Start (OHS), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Secretarial determination on Head Start center-based service duration requirements; waiver.

SUMMARY: With this document, the Secretary exercises his authority to waive the August 1, 2019 Head Start center-based service duration requirements, effectively lowering this requirement from 50 percent to 0 percent. However, the requirement that Early Head Start programs provide 1,380 annual hours of planned class operations for all center-based enrollment by August 1, 2018 remains in effect.

DATES: This waiver is effective [insert date of publication in the Federal Register].

ADDRESSES: Office of Head Start, Mary Switzer Bldg., 330 C Street SW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Colleen Rathgeb, Division Director for Planning, Oversight and Policy, Office Head Start, OHS_duration@acf.hhs.gov, (202) 358-

3263 (not a toll-free call). Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 between 8 a.m. and 7 p.m. Eastern Standard Time.

SUPPLEMENTARY INFORMATION:

Background information

In the Improving Head Start for School Readiness Act of 2007, Congress instructed the Office of Head Start to update its Head Start Program Performance Standards (HSPPS) by regulation and ensure that any such revisions in the standards do not result in the elimination of or any reduction in the quality, scope, or types of health, educational, parental involvement, nutritional, social, or other social services. We published a final rule to complete this revision at 45 CFR chapter XIII, subchapter B, on September 6, 2016. This final rule included a provision at §1302.21(c)(2)(iii) that would require each Head Start center-based program, by August 1, 2019, to provide 1,020 annual hours of planned class operations over the course of at least eight months per year for at least 50 percent of its Head Start center-based funded enrollment. This requirement represents an increase from the existing minimum requirement of 3.5 hours per day, 4 days per week, for 128 days per year, which is equivalent to 448 annual hours. The longer 1,020 annual hour service duration requirement was based on a body of research that suggests individual disadvantaged children benefit from longer exposure to enriching early learning programs than what is provided by the part-day, part-year programs. Research on full-day programs, instructional time, summer learning loss, and attendance all indicate longer service duration is linked with improved child outcomes. Moreover, increased service duration allows teachers more time to provide individualized and content-rich learning that is important for positive child

outcomes. However, the research does not provide clarity on an exact threshold or combination of hours and days needed to achieve positive child outcomes.

We also recognize extended services come at a significant cost for Head Start programs.

Without additional funding from Congress to support longer hours of program operations, a requirement to increase service duration so that 50 percent of Head Start center-based slots in each program operate for 1,020 annual hours would result in the Head Start program serving significantly fewer children. Although research points to the benefits of increased service duration for an individual child, research has not answered whether the population as a whole benefits more when fewer children are served for a longer time as compared to more children being served for a shorter time.

Because future appropriations levels were not known when the HSPPS final rule was published in September 2016, the final rule provided authority for the Secretary to lower the increased Head Start center-based service duration requirements based on an assessment of available funding closer to the requirement's effective date in order to prevent thousands of disadvantaged children not having access to Head Start.

Authority

Section 1302.21(c)(3)(i) of the HSPPS final rule allows the Secretary to lower the required percentage of funded enrollment slots for which programs must provide 1,020 annual hours of planned class operations from the 50 percent required in §1302.21(c)(2)(iii), on or before February 1, 2018, based on an assessment of the availability of sufficient funding to mitigate a substantial reduction in funded enrollment.

Funding Assessment

The Secretary has made an assessment that Head Start appropriations are not sufficient to allow the requirement at §1302.21(c)(2)(iii), for 50 percent of each program's Head Start center-based slots to operate for 1,020 annual hours, to go into effect without resulting in a substantial reduction in funded enrollment.

Prior to publication of the HSPPS final rule, Congress appropriated \$294 million in fiscal year (FY) 2016 to support an increase in hours of program operations across Head Start and Early Head Start. At the time of the FY 2016 funding to support and increased duration, the regulatory requirements were not in effect. Programs that wished to voluntarily increase hours of program operations to 1,020 annual hours for up to 40 percent of their Head Start center-based slots or to 1,380 annual hours for their Early Head Start center-based slots were eligible to submit an application by June 2016 to receive additional funds. Some eligible programs chose not to apply for additional funding. There are programs that currently operate none of their Head Start center-based funded enrollment for 1,020 annual hours. There are also programs that currently operate all of their Head Start center-based funded enrollment for 1,020 hours or longer. These requirements are minimums, and programs could choose to operate some slots longer each day and/or for more days per year.

In the HSPPS final rule, we estimated the cost for programs to implement the 50 percent service duration requirement to be \$535 million. Since the publication of the final rule in September 2016, when Head Start programs were notified of the future requirements to increase center-based service duration to 1,020 annual hours, no additional funds have been appropriated to support increases in service duration. While we requested funds to support additional increases in service duration in FY 2017, Congress did not further increase Head Start appropriations for this purpose.

HHS has conducted an assessment of available funding and the current percentages of slots individual programs currently operate at 1,020 annual hours. Based on this assessment, we estimate that without additional funding, implementation of the requirement at §1302.21(c)(2)(iii) for each program to operate 50 percent of its Head Start center-based slots for 1,020 annual hours would result in a loss of approximately 41,000 Head Start slots, which represents roughly five percent of existing Head Start slots. The FY 2018 President's Budget did not request an increase in appropriations to support increases in service duration. We do not expect sufficient funding to become available in time for grantees to meet the current HSPPS standard.

Conclusion

Under §1302.21(c)(3)(i), the Secretary has made a determination that there is not sufficient funding available to mitigate a substantial reduction in funded enrollment resulting from the requirement described in §1302.21(c)(2)(iii), and hereby waives the requirement that 50 percent of a program's Head Start center-based program's funded enrollment that must operate for 1,020 annual hours of planned class operations by August 1, 2019, effectively lowering the percentage to 0. This determination is effective immediately. Because the HSPPS final rule governs the Secretary's discretion in this matter, the public comment process is not required.

The service duration requirements for Head Start center-based programs described in §1302.21(c)(2)(i) and (ii) remain in effect. Under these requirements, a Head Start center-based program must provide, at a minimum, at least 160 days per year of planned class operations if it operates for five days per week, or at least 128 days per year if it operates four days per week. Classes must operate for a minimum of 3.5 hours per day. These requirements are minimums, and programs could choose to operate some slots longer each day and/or for more days per year.

The Head Start Act allows programs to request to convert part-day slots to full-day or full-working-day slots. This determination by the Secretary provides local Head Start programs maximum flexibility to determine program schedules that best meet the demonstrated needs in their communities, and ensures low-income children will not lose access to Head Start's comprehensive services and a preschool experience before entering Kindergarten because of a federal requirement. Additionally, the requirement under §1302.21(c)(1)(i) that Early Head Start programs provide 1,380 annual hours of planned class operations for all center-based enrollment by August 1, 2018 also remains in effect.

The Secretary's determination under §1302.21(c)(3)(i) does not affect the Secretary's authority to make a separate determination under §1302.21(c)(3)(ii) on or before February 1, 2020, to maintain or lower the service duration requirement described in §1302.21(c)(2)(iv) based on an assessment of the availability of sufficient funding to mitigate a substantial reduction in funded enrollment resulting from that requirement.

In addition, the Secretary's determination under §1302.21(c)(3)(i) does not change or affect current processes that allow grantees to request to serve children for longer service duration within existing funding levels as part of the grantee's annual service and enrollment negotiations with the Office of Head Start.

Dated: January 16, 2018.

Eric D. Hargan

Acting Secretary,

Department of Health and Human Services.

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